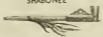




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Friends

GUACANAGARI	PONTIAC	BLACK HAWK
MONTEZUMA	CAPTAIN PIPE	KEOKUK
GUATIMOTZIN	LOGAN	SACAGAWEA
POWHATAN	CORNPLANTER	BENITO JUAREZ
POCAHONTAS	JOSEPH BRANT	MANCUS
SAMOSET	RED JACKET	COLORADAS
MASSASOIT	LITTLE TURTLE	LITTLE CROW
KING PHILIP	TECUMSEH	SITTING BULL
UNCAS	OSCEOLA	CHIEF JOSEPH
TEDYUSKUNG	SEQUOYA	GERONIMO
	SHABONEE	

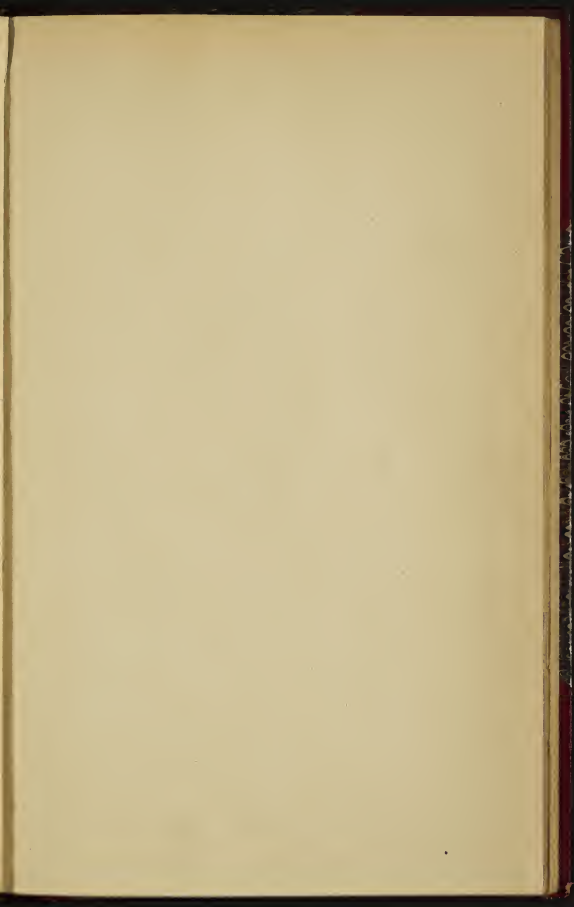


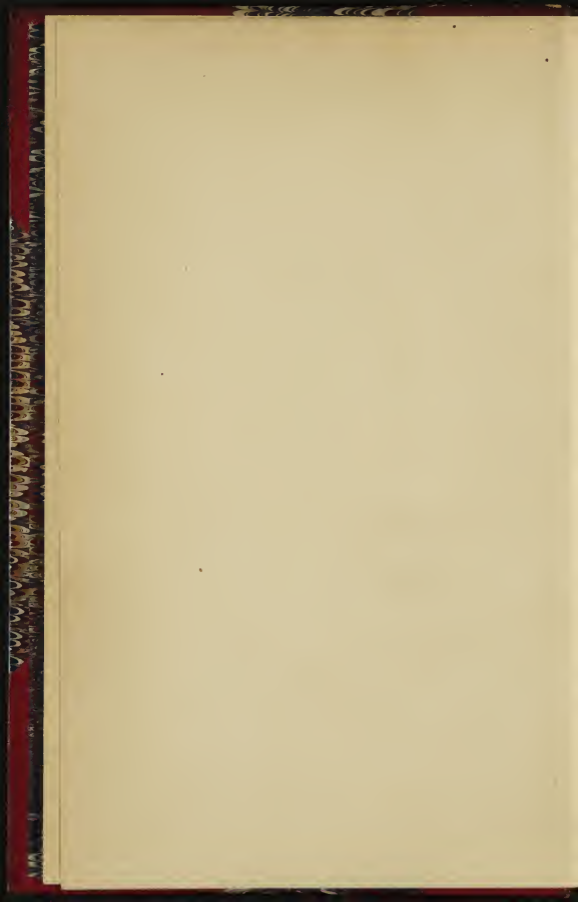
TO PERPETUATE THE HISTORY
AND DEVELOPMENT OF THE
PEOPLE REPRESENTED BY THE
ABOVE CHIEFS AND WISE MEN
THIS COLLECTION HAS BEEN
GATHERED BY THEIR FRIEND
EDWARD EVERETT AYER

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NEED OF LAW

ON THE

INDIAN RESERVATIONS.

ISSUED BY THE

ASSOCIATED EXECUTIVE COMMITTEE OF

FRIENDS ON INDIAN AFFAIRS.

PHILADELPHIA:

SHERMAN & CO., PRINTERS.

1878.D.



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A STATEMENT OF FACTS,

INTENDED TO SHOW

THE IMPERATIVE NECESSITY FOR THE EXTENSION
OF CIVIL LAW OVER THE INDIAN TERRITORY
AND THE RESERVATIONS.

As members of the religious Society of Friends, imbued from childhood with the desire of seeing justice ultimately extended to the aboriginal possessors of the land,—their social and political needs recognized and provided for with the same consideration as they have been established for ourselves, their successors,—we do now, in our official capacity, as constituting the Associated Executive Committee of Friends on Indian Affairs, present the following statement of facts, clearly demonstrating, as we think, the pressing necessity for the extension of the civil law over the Indian Territory and the Reservations.

In the Annual Report of Indian Commissioner Cooley, for the year 1866, an earnest recommendation was made for the enactment of some effective code of laws for the arrest, conviction, and punishment of persons guilty of the commission of crime upon reservations or in regions chiefly inhabited by Indians, whether for offences perpetrated by whites against Indians, or by Indians against whites, or by Indians against each other. He urges the necessity of the case in language which we cannot do better than quote, as follows:

“The Intercourse Laws, passed over thirty years since, and apparently sufficient at that time, before the tide of emigration had begun to set strongly towards the frontier, and while none but occasional hunters and trappers interfered

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with the occupancy of the country by the Indians, are insufficient now, when the white population west of the Mississippi begins to number its millions. It is much to be hoped that Congress will, at its next session, take this subject into careful consideration, and provide a plain, comprehensive code, by which the Superintendents and Agents may dispense justice within their jurisdiction, and the infliction of appropriate penalties may be rendered certain, whether the offender be red or white. Retaliation is the law of the Indians; and if, in his early approaches to civilization, he is compelled to abandon that law, he looks for a substitute in the white man's law. In too many cases, indeed almost universally, where a *white* offender against the rights or life of an Indian is brought into our courts through the efforts of the Agent, he is sure of acquittal; but reverse the case, and the Indian almost surely suffers. It does seem practicable to improve upon this condition of things."

These recommendations, variously modified, have been reiterated annually by Indian Commissioners and Agents, and by many individuals and societies who have the welfare of the red men deeply at heart. With the outspreading of the white population does the necessity for legislation in this direction become each year increasingly apparent and imperative. All will concur with the opinion expressed by the Sioux Commission of 1876, that the great obstacle to the complete success of the Indian policy inaugurated by President Grant is, that no change having been made in the laws for the care of the Indians, they are left (humanly) unprotected in person, property, or life, and with no redress, unless it be personal revenge. "There is not a member of Congress," say the Commission, "who does not know that even with all the influences of Christian civilization, schools, churches, and social restraints, there is not a community of whites which could protect itself from lawless violence under the same conditions; and yet we take it for granted that the superior virtue of a savage race will enable it to achieve civilization under circumstances which would wreck our own. In the Indian's wild state he has a rude govern-

ment of chiefs and headsmen, which is advisory in its character. When located upon reservations, under the charge of a United States Agent, this government is destroyed, and we give him nothing in its place."

"They have no written laws," says Heckewelder, in his treatise on the Indian Nations, "but they have usages founded on the most strict principles of equity and justice. . . . Thieves are compelled to restore what they have stolen, or to make satisfactory amends to the injured party; in their default, their nearest relations are obliged to make up the loss. If the thief, after sufficient warning, continues his bad practice, he is disowned by his nation, and any one may put him to death the next time he is caught in the act of stealing, or that it can be clearly proved to have been committed by him."

"The American savages," says Hewitt (History of South Carolina and Georgia, published 1779), "almost universally claim the right of private revenge. It is considered by them as a point of honor to avenge the injuries done to friends, particularly the death of a relation."

OFFENCES OF INDIANS AGAINST INDIANS.

There is no lack of current evidence that the *lex talionis*, at least, has survived the wreck of the crude governmental polity of the aborigines. The Commissioner of Indian Affairs, in his report for 1873, affirms that the authority of the chiefs, under their present changed condition from a wild life, is of no avail as a police restraint upon lawlessness, they themselves being subject to the control of the worst element in their tribes, and that an Indian guilty of the murder of another Indian is accountable only to the law of retaliation. The State authorities concern themselves very little about the matter.

Agent Jones, of the Quapaw Agency, Indian Territory (Report of 1876), says: "I would call the attention of the department to the necessity for the enactment of laws for the punishment of crimes against the persons or property of

Indians by Indians. The lack of any statute against offences of this kind tends to encourage them in taking revenge on each other for real or imaginary wrongs, much to the insecurity of life and property."

The reports unanimously concur in this view of the case—that their present shadow of a tribal government is altogether ineffectual for the protection of the innocent and the punishment of the guilty, inasmuch as the present Inter-course Law withholds from the United States all jurisdiction in case of crimes committed by one Indian against the person or property of another Indian. Section 2146, Revised Statutes, further declares that the power of interference on the part of this government does not extend to the case of "any Indian committing any offence in the Indian country who has been punished by the local law of the tribe, or to any case, where, by treaty stipulations, the exclusive jurisdiction over such offences is or may be secured to the Indian tribes respectively."

The following extracts from recent reports of agents are instances of the law of retaliation as practiced by Indians upon each other; yet, as they are mostly cases of inter-tribal homicides, it must be confessed that they are not essentially different, in their nature, from the assaults of white citizens of one State or country upon those of another.

Agent Palmer, of Standing Rock Agency (Report of 1874, p. 247), says: "A raiding party of Sioux from the lower agencies, passed here in the latter part of May, on their way north, and returned on the 18th of June, saying that they had killed seven Rees, with a loss to themselves of two killed and one wounded. They profess not to have any ill-feeling against the whites, and say they are always careful when raiding not to imperil the lives of any whites, or injure their property. As long, however, as the Rees commit depredations on them, they say they are compelled to retaliate."

The Agent at the Blackfeet Reservation (Report of 1876) mentions the case of a young Piegan, who, having been shot at and wounded by two Santees, died three weeks afterward, in great pain. The Santees and other tribes, it appears, were

enraged against the Blackfeet Indians, because, in a council held just before, they had refused to unite with them and the Sioux under Sitting Bull against the whites. The murder resulted in great excitement on the part of the Blackfeet Indians, and but for the earnest efforts of the Agent would most likely have eventuated in a war with the Santees and their allies. "I have no fear," says the Agent, "that these people will commit any acts against the settlers, but I do fear that repeated outrage may lead to trouble with the above-named Indians."

Special Agent Thompson, Denver, reports (1874, page 272): "In July last a portion of Pi-ah's band, who were hunting buffalo on the Republican, surprised and killed three Sioux warriors near the Sand Hills, east of Fremont's Butte. They brought the scalps of the slain to Denver, in great triumph, and desired to be allowed to make a public display and indulge in a parade in the streets. This, of course, I could not sanction, yet I could not prevent their celebrating the victory in their own way at their camp. They consequently held nightly dances near Denver during an entire week, and until reports reached me that many white persons were in the habit of visiting the pow-wows and clandestinely giving the Utes whisky, to make them 'sing louder.'" Pi-ah and his band of Utes were then ordered to break camp and leave for the mountains, which they accordingly did.

The irritating behavior of the Klamaths towards Captain Jack's band appears to have been one of the immediate causes of the Modoc war. A treaty had been concluded in 1864 with the Klamath and Modoc Indians, and a part of the Snake tribe, by which they ceded all their right and title to lands claimed by them, and accepted in lieu of the same a certain reservation, defined by natural boundaries, upon which they promised to locate as soon as said treaty was ratified. The ratification of the treaty was not proclaimed by the President until the Second Month of 1870; nevertheless, the Modocs were then found on their reservation, and remained there two months longer, when they departed for their old camp on Lost River. "There is evidence," says the Com-

missioner of Indian Affairs (Rept. 1873, p. 13), "that Captain Jack and his band were prepared at this time to remain upon the reservation, and settle down in the way of civilization, if there had been ordinary encouragement and assistance, and if the Klamaths, who largely outnumbered Captain Jack's band, and who were their hereditary enemies, had allowed them so to do. The Modoes had begun to split rails for their farms, and in other ways to adopt civilized habits; but the Klamaths demanded tribute from them for the land they were occupying, which the Modoes were obliged to render. Captain Jack then removed to another part of the reservation, and began again to try to live by cultivating the ground. But he was followed by the same spirit of hostility on the part of the Klamaths, from which he does not seem to have been protected by the Agent. The issue of rations seems also to have been suspended for want of funds, and for these reasons Captain Jack and his band [as before stated] returned to their old home on Lost River, where they became a serious annoyance to the whites, who had in the meanwhile settled on their ceded lands." The effort of the military to remove the band, and the assassination of General Canby and Dr. Thomas while in negotiation with them (probably in revenge for outrages committed by Captain Ben Wright, twenty years before), quickly followed.

Some of the Indians unattached to reservations seem to be acquiring the roving and predatory nature of *tramps*, greatly to the detriment of their white neighbors and of the Indians settled on the reservations. The Agent of the Warm Springs Agency, Oregon, refers (Rept. 1874, p. 325) to a number of straggling bands who range over that country, occasionally stealing stock and annoying settlers, lying around the towns, drinking and creating disturbances, unsettling the reservation Indians, whom they entice into gambling and other kindred vices, or run off their women and horses. Similarly, the Agent of the Round Valley Reservation, California (Rept. of 1876), says of the non-reservation Indians in those parts, that they "live a roving and dissolute life; while drinking, gambling, and other minor vices

not only impoverish them, but are fast hastening their utter extinction."

DISPOSITION TO SUBMIT TO LAW.

Nevertheless, there are evidences in various quarters of a willingness to submit to and encourage the working of the "white man's law," especially when the Agents themselves are zealous in exhibiting its superiority to the operation of private revenge. Some also refrain from reprisal for wrongs suffered, under the belief that the government, in accordance with treaty stipulations, will remunerate them for losses sustained at the hands of their raiding neighbors. Thus the Agent of the Poncas reports the case of a raid made last year by some Sioux, who killed a Ponea Indian, and ran off thirty head of ponies and three head of cattle; but the wronged ones refrained from retaliating, not having (like some other tribes) quite lost faith in the promises of the government.

Several encouraging instances of the willingness of the Indians to co-operate with their Agents in maintaining the law are found in the reports of last year.

Agent Beede, of the Osage Agency, Indian Territory, with the co-operation of an executive committee of five leading men of the tribe, effected the arrest and delivery to a United States Deputy Marshal, of two men of the tribe, charged with commission of crime. They were conveyed to Fort Smith, two hundred miles away, to be there tried by the white man's laws. "A case unparalleled," says the Agent, "within my knowledge of wild, blanket Indians." Also, with the co-operation of this Indians' committee, another offender, charged with several acts of petty larceny, was tried before a jury of his own tribe, and by them convicted and sentenced to thirty days' hard labor under the direction of the Agent—a sentence which was faithfully carried out.

Agent Haworth also (in his Report for 1876), mentions the fact that there is observable a growing disposition on the part of the Indians attached to his agency—the Kiowa and Comanche—that all the members of those tribes shall not be brought under condemnation because of the evil

actions of a few individuals. He instances the circumstance that a young Comanche, having broken into one of the trading stores, and abstracted some goods, the matter was brought to the attention of the chiefs in a special council, who, sending some of their own people, arrested the young man, and caused him to be confined several hours in the guard-house. Some time subsequent to that occurrence, a young Kiowa, returning from the Cheyenne Agency, stole a horse; but he was promptly arrested by some of his own tribe, and likewise taken to the guard-house. A third instance, also at the same agency, was that of another young Kiowa, who, in a fit of passion, killed his wife. The chiefs, at the solicitation of Agent Haworth, who said that such a crime should not be passed lightly by, agreed to secure the arrest of the murderer, and do with him whatever the Agent said, even if the dictum was that he should be killed. Two of their number accordingly arrested the offender, who was thereupon sent to the guard-house, where, for several months, he was either kept in confinement or worked near by with ball and chain attached. "The arrest was made," says the Agent, "without any promises of mercy being exacted or made, no soldiers being required, and was done simply on my suggestion or request. I refer to these cases to show the improvement among them in favor of the enforcement of law and order. I am fully satisfied a police force could be organized among them, which would be very efficient in preserving order, not only among their own tribes, but in keeping out whisky peddlers and other bad characters. To be efficient, it should be fully organized and paid."

OFFENCES OF INDIANS AGAINST WHITES.

Whilst offences of Indians against Indians are made little account of, and those of whites against Indians are usually allowed to pass by almost unnoticed, the robbery or murder of a white person by an Indian is commonly made a matter of investigation—the offence, in the meantime, being greatly magnified, and the exaggerated or distorted details sent far

and wide over the land. Frequently, however, these reports of outrages are quite void of truth, originating generally with those who have themselves maltreated the Indians. The well-authenticated cases of gross offences committed upon the persons or property of whites by reservation Indians are comparatively few. But occasionally the offence of the Indian is allowed to pass unpunished.

The Agent at the Blackfeet Reservation reported, three years ago (Report for 1874, p. 260), the case of a white man who, without any provocation, so far as known, was killed by a band of Northern Blackfeet. Although notice of the murder was communicated to military authorities at Fort Shaw, they seemed powerless either to effect the arrest or the punishment of the offenders.

Another instance, reported the same year by Agent Palmer, of the Standing Rock Reservation, as occurring near Fort Rice, Dakota, was that of a white man, who, in a drunken row, was killed by an Indian, to whom (in violation of the law) he had furnished liquor. Five weeks later, a Deputy United States Marshal arrived at the agency for the purpose of arresting the murderer and taking him to Bismarck for trial. Yet, believing that the white man was really to blame, the Marshal made no attempt to arrest the Indian and to have the case judicially decided.

OFFENCES OF WHITES AGAINST INDIANS.

Concerning offences committed by whites against Indians, there is very much more to be said. They may be classified under the respective heads of (1.) TRESPASSING ON RESERVATIONS; (2.) STEALING; (3.) DRUNKENNESS; and (4.) DEBAUCHERY. Manslaughter may occur under any of these divisions, and hence need not be separately considered.

TRESPASSING ON RESERVATIONS.

Trespassing stands at the forefront of the evils enumerated, simply because the existence of an offence is predicated upon the bodily presence of the offender. It is difficult to

perceive why the systematic defiance of the law in this respect should be permitted by the government to exist for a single day, seeing that its prevalence so demoralizes the Indians, and, while seriously weakening the effectiveness of the new policy or experiment of Indian treatment, even threatens at times to defeat it altogether.

The Agent of the Great Nemaha Agency, Nebraska (Report of 1876), says on this point: "The progress of advancement, especially in morals, is very much retarded by the presence of a low class of whites, who infest the Indian reservations. Much annoyance and demoralization are observed at this agency on this account, as the present law for their expulsion is inoperative, from the fact that no penalty is imposed for their return when once removed, except fine, and this class of 'roustabouts' seldom have any property from which a fine could be collected; and knowing this, they return to the reservation and remain with impunity. This has been the case here, where parties were removed by Department's orders. A law for their expulsion and summary punishment by imprisonment, or otherwise, for returning, is most urgently demanded."

Agent Marston, of the Union Agency, complains of the large number of unauthorized and irresponsible white intruders in the Territory occupied by the civilized Mobilian tribes. He says that their number is constantly on the increase, and that in one county alone, in the Chickasaw Nation, it is estimated there are as many as three thousand.

The Agent of the Sac and Fox Reservation, Indian Territory, says: "The baneful influence of unauthorized white men upon these reserves, and particularly among the Shawnees, is very much to be deplored; but where the source of retribution is so remote, and the expense and difficulty of conviction so great, outlaws feel very much as if they had free license to remain and carry on their nefarious employment with impunity."

The late Superintendent of Indian Affairs for the Northern Superintendency (Barclay White) characterizes the presence of these outlaw whites upon the reservations as a "moral

leprosy, fatal to all progress in civilization of the Indians associating with them."

How different the result, how summary the punishment inflicted by professedly Christian people when the intrusion comes from the *other side*! Instance only the Medicine Lodge massacre of 1874, of which the facts were briefly as follows: A party of twenty-nine Osages, ten of whom were women and children, wandered beyond the territorial line into Kansas in search of buffalo, several of which they killed in a sandy and uninhabited country—a portion of their former reservation. This act they did not consider punishable, as they had reserved the privilege of hunting there while the country remained unsettled. But as the party was preparing to start for home they were approached by a body of about forty mounted whites, armed with breechloading guns and revolvers, who, coming toward them as with friendly intent, detained and disarmed the first eight who arrived, shot four of them on the spot, then charging on those who remained in camp, obliged them to fly for their lives. Over fifty ponies and mules which they left behind were driven off by the marauders, and all their other property was either carried away or destroyed. No satisfaction has as yet been obtained for the outrage. Had a similar wrong been perpetrated by Mexicans or Canadians upon United States citizens, it would have been deemed ample reason for an instant challenge, either to give satisfaction or to prepare for war. In fact, at this very time, American troops have crossed the Rio Grande and invaded Mexican territory under provocations which, though not slight, were still unstained by infamous murder such as that visited upon the Osages.

Distinguished from this *irresponsible* species of intrusion, is that bold form of aggression on the part of the whites, whether as individuals or as a government, which is defensible only on the assumption that "might makes right." It might have been reasonably supposed that the successive surrender by all the tribes of their homes and extensive hunting-grounds would have guaranteed them at least in the peaceful possession of the limited tracts which they

eventually agreed to accept. To this plane of equity, however, our nation has not yet arrived. We may have read, with feelings of indignation and shame, the story of the Spanish occupation of America, their cruel treasure hunt in the Isles of the Carib, in Florida, Mexico, and Peru, and may have inwardly ejaculated that surely such deeds of blood and rapine could never on American soil be tolerated again, yet the whole history of the English occupation, together with that of the later Republican settlement, has, with but few exceptions, exhibited the contrary. The forcible occupation of the Black Hills but parallels in its unrighteous purpose the march of De Soto for the gold of the Appalachians, of Cortez for the treasures of Montezuma, of Pizarro for the rumored opulence of the Incas. No monumental cities, it is true, crowned the summits of the Black Hills, yet the name of *home*, though it be but tent or hut or hovel, may be as dear to the heart of the Indian as it is to that of the Christian. "We hardly know how to frame in words," said the Black Hills Commission of 1876, "the feelings of shame and sorrow which fill our hearts as we recall the long record of the broken faith of our government."

It is therefore no matter for surprise when the government, whether it be by intention or merely through weakness in permitting the delinquencies of its official representatives, thus breaks faith with the tribes, or persistently ignores their claims for justice, that its citizens take pattern, so to speak, after their parent.

Although in the mining State of Nevada, which is annually contributing millions of coin to the wealth of the nation, there is a large tribe of probably three thousand Western Shoshones, former possessors of the soil, yet these have no homes secured to them which they can call their own, while, according to the Agent's report for 1876, "they received little or no assistance from the government during the past year." Says the farmer in charge: "The country is being fast settled by white people, and the patches of land heretofore cultivated by the Indians have, in many

eases, been taken from them, while in others the water used for irrigating purposes has been taken also, so that their crops have dried up and become worthless. I have been frequently appealed to by the Indians to assist them in such cases, but in most instances it has been impossible for me to do so, the Indians being scattered over a very large tract of country, and I being entirely without means to use in their behalf." The tribe therefore appeals for one or more reservations for their future homes.

The Agent of the Flathead Agency, Montana, reports that on the south line of the reservation there is quite a large tract of meadow-land, only a very small portion of which lies beyond the boundary, and that although this meadow is entirely isolated from the settlements of the whites by four miles of a cañon, yet so covetous of it have the whites become that they allow their horses to roam beyond their own small parcel of land over the whole meadow, greatly to the detriment of the large crop of hay belonging to the Indians. Upon the northern boundary there is another meadow similarly situated and under like difficulties as to aggression. The Agent says that he has sought legal advice in regard to this and other trespassing, but the law seems so indefinite that no remedy is apparent.

THIEVING.

We will now turn from the matter of trespassing, on the part of the whites, to consider the subject of thieving. Perhaps it may disturb the preconceived notions of some to be told that the savage is *not*, or rather was not, before his association with faithless, rum-dealing white men, an ingraind thief. Colden says, in his *History of the Iroquois Confederacy*, that "theft is very scandalous among the Five Nations." Heckewelder mentions several circumstances in proof of their native honesty. As thus: "In the year 1771, while I was residing on the Big Beaver, I passed by the door of an Indian, who was a trader, and had consequently a quantity of goods in his house. He was going

with his wife to Pittsburg, and they were shutting up the house, as no person remained in it during their absence. This shutting up was nothing else than putting a large hominy pounding-block, with a few sticks of wood, outside against the door so as to keep it closed. As I was looking at this man with attention while he was so employed, he addressed me in these words: 'See, my friend, this is an Indian lock that I am putting to my door.' I answered, 'Well enough; but I see you leave much property in the house; are you not afraid that those articles will be stolen while you are gone?' 'Stolen! by whom?' 'Why, by Indians, to be sure.' 'No, no,' replied he, 'no Indian would do such a thing, and unless a white man or white people should happen to come this way, I shall find all safe on my return.'"

The present stealing with which the whites are specifically arraigned by the reservation Indians, is that of depredating on their timber and running off their horses, together with that time-honored custom of stealing their annuities, which goes by the softened term of "peculation." As illustrative of the latter, the evidence unfolded by the Red Cloud investigation is fresh in the minds of all. The savage massacres which preceded the war with the Sioux in 1862, appear to have been owing, in a great measure, to the atrocious conduct of the Agent at Fort Laramie, in connection with traders, in swindling the Sioux out of a large portion of their annuities.* But we need not enlarge on this section of our subject. It is a species of plundering already sufficiently identified, yet we trust that, through the continuous good offices of the members of the Indian Commission, the supervision of the Inspectors, and the presence of (mainly) reliable Agents, appointees of the religious societies, the former system of annuity-stealing has become, in its operations, very much circumscribed. Now as to depredations of timber.

Agent Griest, of the Otoe Agency, Nebraska, complained to the department, in 1874, that "the continued depreda-

* See Rept. of Commissioner of Ind. Aff., 1862, page 17.

tions of the whites were rapidly stripping the reservation of its timber, and that, unless efficient means to prevent it were used, the most that was valuable would soon be gone." Again, in his report for the year that is past, he reiterates: "The destruction of timber on the reservation, by white settlers, has been great during the year, and to again speak of it seems to be my unpleasant duty, as the supply of timber is very small at best. Its destruction is an injury to the country, a heavy loss to the tribe, and an exhibition of a low moral condition in many of the surrounding settlers, who have disregarded the provisions of the law and the rights of others. Some efforts have been made by the judiciary of the district to prevent it, but they have not been effectual."

The Agent at Fort Berthold Agency, Dakota, states (Rept. 1876) that the Indians, Arikarees and others, cut about five hundred cords of wood during the year, intended for sale to the boats on the Missouri, but they have been greatly discouraged by the wood being taken without payment. In one instance, indeed, the boatmen paid the unsuspecting Indians in Confederate scrip, but the name of the boat being unknown, the Agent was unable to procure redress. "Indians say," says the Agent, "that some of the boatmen, when they see them at their wood, pass on until they find a pile with no one to watch it, when they are quite sure to want a supply, and it is taken without asking."

One of the most industrious and inoffensive tribes in the Indian Territory, perhaps the most so, is that of the Caddoes. They are mostly engaged as farmers and stock-raisers, are greatly interested in the education of their children, and have generally adopted the habits of the whites. Nevertheless, having suffered much the past year, as in preceding years, at the hands of white horse-thieves, the Agent in charge of Wichita Agency (to which the Caddoes are attached) earnestly appeals for the adoption of some means which may secure the speedy administration of justice. He states that eighty-eight head of horses and mules were stolen from that small tribe in 1876, and that thirty-one others were taken at the time the report was being written; that, although

much of the stock first stolen had been recovered, yet it was attended with very serious loss of time and means, such as ought not to have been incurred by a people who were deserving of much better protection at the hands of the government. Of the eleven persons, all white, who were known to have committed the depredations, only *two* were captured and convicted. The explanation of this comparative immunity of the thieves from punishment, is thus stated by Agent Williams: "For various reasons the arrest and trial by judicial process of persons who violate the laws in this portion of the Indian Territory is attended with so many difficulties as to be almost impracticable, as the proportion of malefactors to the convicted, as above stated, will show. Among these reasons is the reluctance of the Indians to be taken hundreds of miles away from their homes and domestic affairs, among a people of whom they have no knowledge, and for a purpose they can neither understand nor appreciate. Add to this the pecuniary sacrifice for all who are compelled to make the long journey to Fort Smith, in Arkansas, to give testimony against violations of the laws, and it is no wonder if the Indians endeavor to avoid such a sacrifice of time, labor, and perhaps their crops, with so little prospect of redress for the losses and wrongs of which they are the victims."

This sacrifice, we may well believe, is no slight one. It was a like cause which precipitated the formidable Whisky Insurrection of 1794, and, remembering this, it may help us to appreciate the exasperation which such a hardship, in furtherance of a judicial form, must be calculated to produce in the Indian mind. A marshal appeared among the delinquent distillers in the Monongahela district, serving them with notices to appear in Philadelphia to answer the charges against them—a long and toilsome journey, which could only be accomplished at heavy expense and much loss of time, especially as the processes were issued in the time of harvest. As the marshal was serving the last of forty of them he was pursued and fired into by the farmers, when the trouble,

which eventuated in the calling out of an army of fifteen thousand men, began in earnest.*

It is stated by S. A. Galpin, in his report upon the condition and management of certain Indian Agencies, dated 15th of January, of the present year (1877), that "the depredations of these professional horse thieves, who make regular trips through the territory between Texas and Kansas, selling in Texas the ponies stolen from the Indians on the southward journey, and in Kansas those stolen on the northward, have for the past two years *far exceeded* the depredations committed by the Indians upon the whites." The Kiowas and Comanches, he says, lost not less than two thousands ponies during 1875, and a somewhat smaller number during the past year. We would further state, as mentioned in the Report of our Executive Committee on Indian Affairs for the present year, that the Cheyennes and Arapahoes, who went out to the last buffalo hunt, had about \$4000 worth of ponies stolen from them by white horse thieves, and all the efforts of Agent Miles to effect the restoration of property have resulted in securing but \$1100 worth.

DRUNKENNESS.

We now come to speak of that prolific source of woe to the Indian, as indeed it is to all, even professedly Christian communities, that of *rum drinking*. Who does not know that it was the white man who placed the bottle to the lips of the Indian, and earned for his race a measure of that solemn warning of Holy Writ, "Woe to him that giveth his neighbor (strong) drink, that putteth thy bottle to his lips."

Gookin, the friend of John Eliot, says that drunkenness could not be charged to the Indians before the white man came to America, and adds: "The English in New England have cause to be greatly humbled before God, that they have been and are instrumental to cause these Indians to commit this great evil, and beastly sin of drunkenness." His testimony

* Brackenridge's Hist. of the Whisky Insurrection; Day's Hist. Annals of Penna.

on this point is confirmed by Heckewelder, who says: "The Mexicians have their *pulque*, and other indigenous beverages of an inebriating nature; but the North American Indians, before their intercourse with us commenced, had absolutely nothing of the kind." Colden, also, in his History of the Five Nations, says: "There is one vice which all the Indians have fallen into since their acquaintance with the Christians, of which they could not be guilty before this time, that is *drunkenness*."

At a council, held at Conestoga, Pennsylvania, in 1721, a Seneca chief declared that "all their disorders came from the use of rum and strong spirits, which took away their sense of memory, that they had no such liquor among themselves, but were hurt with what we furnished them, and therefore desired that no more of that sort might be sent among them."* And at another treaty, held at Carlisle, more than thirty years later, one of the Iroquois chiefs, speaking in behalf of all the Indians present, said: "The rum ruins us. We beg that you would prevent its coming in such quantities by regulating the trades. We never understood the trading was for *whisky*. We desire it may be forbidden, and none sold in the Indian country."†

But the protestations of two centuries have, as yet, failed to protect the aborigines from this, the great obstacle to their moral and material advancement. Notwithstanding that the exclusion of intoxicating liquors is expressly guaranteed the Indians as against the whites, yet, with very few exceptions,—notably that of the little band of Modocs on the Quapaw reservation, who seem to be total abstainers,—there is a general cry for relief from all the agencies.

Excepting by order of the War Department, "no ardent spirits shall be introduced under any pretence into the Indian country." Such are the words of Section 2139 of the Revised Statutes, which also prescribes the punishment as imprisonment for not over two years, and a fine not exceeding \$300.

* Proud's Hist. of Penna., vol. ii, page 133.

† Leeds's Hist. of the United States, page 281.

As to its introduction by the Indians themselves, it has been customary to insert in all recent treaties a clause similar to the following—being Article IX of the treaty of 1866 with the Snake tribe of Indians: "The tribe are desirous of preventing the use of ardent spirits among themselves, and it is therefore provided that any Indian who brings liquor on to the reservation, or who has it in his possession, may, in addition to the penalties affixed by law, have his or her proportion of the annuities withheld for such time as the President may determine."*

In no place have the evil effects of the introduction of ardent spirits been more marked, than in our recently acquired territory of Alaska. The demoralization of the native Aleuts, it is humiliating to admit, began only when the country was transferred to the government of the United States. "Nowhere else that I have visited," said Vincent Colyer, Special Commissioner to Alaska, in 1869,† "is the absolute uselessness of soldiers so apparent as in Alaska. . . . The soldiers will have whisky, and the Indians are equally fond of it. The free use of this, by both soldiers and Indians, together with the other debaucheries between them, rapidly demoralize both, though the whites, having the larger resources and being better cared for by the government, in houses, clothing and food, endure it the longest."

Mayor Dodge, of Sitka, testified that some of the officers drank immoderately of liquor, one or two of them having been drunk for a week at a time, and that the Kake war arose out of a pure case of drunkenness—the kicking of an Indian by a drunken soldier.‡ So, also, the bombardment of Wrangel was brought about as the result of a mere fracas, in which two half-drunken discharged soldiers seized an Indian in the town, brutally beat and stamped upon him.§ As testified by Collector Kapus, of the port of Sitka, the

* See Revision of Indian Treaties, page 806.

† Board of Indian Commissioners' Report for 1869, page 81, etc.

‡ See Colyer's Report, as above.

§ Colyer's Letter to President Grant, Third Month, 31st 1870.

liquor is readily smuggled into the country, the government vessels not being able to patrol the shallow waters of the numerous inlets along the coast. The Indian's fondness for liquor is well known, and for one bottle of whisky he will sell more than five times what its value in money would procure.

Even among the civilized Cherokees, Creeks, and the other Mobilian tribes in the Indian Territory, the sale of liquor meets with little restriction. "The great source of crimes of all kinds almost daily committed within this territory," says Agent Marston (Rept. 1876), "is the introduction and sale of spirituous liquors, large quantities of which are smuggled into or sold in the territory by parties holding a license to sell it from the United States government. The severity of the law, and the vigilance of the authorities, fail to keep it out. Occasionally a jug is smashed or a barrel caved in, but where detection takes place in one case, a hundred escape." In the Seminole Nation, however, as stated by a recent visitor, the prohibition against the sale of liquor is well enforced. When found, the article is confiscated and poured on the ground, while the culprit receives a castigation to the extent of ten lashes on the back, besides a penalty of \$10 for each gallon of whisky captured.*

The agent of the Southern Apaches reports several Indians killed the past year in domestic quarrels among themselves, caused, in his opinion, by whisky which unscrupulous citizens furnish, against all efforts to break up this illicit traffic.

Discouraging as are statements such as these, yet, on the other hand, the great success which has been attained in *Canada* toward the suppression of the sale of liquor to the Indians plainly demonstrates that the evil is not ineradicable. The Dominion Minister of the Interior (in his Report for 1874, page 3) uses the following language: "Two acts passed during the recent session of Parliament claim special notice in connection with Indian affairs in the territories, viz.: 37

* Letter of D. C. Milner to National Temperance Advocate, September number, 1877.

Vic. cap. 7, and 37 Vic. cap. 22. The former prohibits the importation into or manufacture in the Northwest Territories of all intoxicating liquors, and enforces such prohibition by the most stringent provisions. The latter authorizes the establishment of a mounted police force in the Territories, and clothes the officers thereof with ample powers to carry out the provisions of the liquor law. The united operation of these acts has already done much toward the suppression of the liquor traffic in the Territories, and their provisions, if vigorously enforced, must ere long stamp it out altogether. As a matter of caution and courtesy, messengers were dispatched in advance of the mounted police to apprise the Indians, through whose Territories they would pass, of the nature and objects of the movement, and as a result, the force was everywhere welcomed by the Indians as their friends and benefactors."

Respecting the suppression of the liquor traffic, and the continued success of the Canadian peace policy generally, the Minister of the Interior further remarks, in his report for 1876: "The moral and material condition of the Indians in the Northwest has been steadily and surely progressing since the Northwest Territories were included within the Dominion. The liquor law and the mounted police force, have together succeeded in stamping out almost entirely the vice of drunkenness. Crime is comparatively rare. The irritation and distrust which existed in certain localities, or among peculiar bands of Indians, have been replaced by an almost universal feeling of contentment and of gratitude to the government for its liberality and benevolence."

At the spring term (1876) of the United States District Court for Kansas, held at Topeka, it was held by the presiding judge that the sale of intoxicating liquor to an Indian, when absent from his reservation, was not a legal crime. There being in Kansas villages of the whites contiguous to the boundaries of the reserves, this unfortunate decision immediately opened the way to the demoralization of the Indians, who gave loose rein to their appetite for the vile liquor. "Drunkenness and brawls," says Agent Newlin,

"were common, and industry seemed suddenly paralyzed. I used every effort and influence in my power, and, with the assistance of good men among the Indians, succeeded in reducing the evil. . . . This evil is the greatest obstacle to civilization that exists, and it is of paramount importance to the welfare of the Indians that such laws may be enacted as will prevent the sale of intoxicating liquor to them."

But, whether on or off their reservations, it should be made a penal offence to supply them with spirituous liquors. They themselves most surely believe that the government has the power to stop the traffic if it wills to do so. "We don't make whisky ourselves," said an orator of the Kickapoos at an interview over thirty years ago, "and we tell our young men not to drink it, but we cannot help it so long as white men sell it to them. We don't know how to make the white men take the whisky away, but the great men at Washington do. We hope they will help us."*

DEBAUCHERY.

To some minds it may seem that the only eventual solution of the Indian question is the gradual *extermination* of the tribes, through war, drunkenness, and debauchery. Yet at this point, remembering that we are beings accountable to an Almighty Power for all our acts and influences, we are bound to give answer, yea or nay, to the equivocal query of Cain, "Am I my brother's keeper?" We all acknowledge a heinous deed to have been done, when an individual, envious of the possessions of another, destroys the life of such a one. His victim, he thinks, will be well out of the way; but no sooner is the dread act committed than the inquiry for blood goes forth, and, whether it be before man's tribunal or at the bar of Divine justice, the crime must be atoned for. Similarly, we, as a nation, cannot think to avoid the retribution which in some shape must come upon us if we continue to deny the cry of the Indian for that help which

* Report of visit of J. D. Lang and S. Taylor, Jr. (1842), to the tribes west of the Mississippi.

we are abundantly able to extend him. Truly did Bishop Whipple say, concerning this matter of conceding simple justice to the Indian, "We are not dealing with a few poor savages, we are dealing with God."

In the report of the Joint Special Committee of Congress, to inquire into the condition of the Indian tribes (1867), General Sprague, in answer to the question, "What diseases are most common and most fatal among the Indians, and from what causes?" replied: "The children die rapidly and suddenly from dysentery and measles, and from neglect and exposure to the weather. The adults die from fevers, small-pox, drunkenness, and diseases engendered from sexual intercourse. These latter diseases are among the men and women in the most malignant form, as the Indian doctors are unable to manage them. Indulgence in liquor, exposure, and the absence of remedies aggravate the disease. In this, striking at the very basis of procreation, is to be found the active cause of the destruction of the Indian race."

General Pope (same report) gave his opinion that "venereal disease, particularly secondary syphilis, is the most common and destructive. It is to be doubted whether one Indian, man or woman, in five, is free from the disease or its effects."

The sub-report (J. W. Nesmith's) to the Joint Committee, says of one tribe, the Indians of the S'kokomish Reservation on the Straits of Juan de Fuca, that "they are mostly lazy, drunken, dissolute vagabonds, who can neither be persuaded nor compelled to labor. They are brought in contact with the white population at all of the villages and lumber camps along the western portion of the Sound, and are rapidly falling victims to venereal diseases and noxious whisky, which they can but too readily obtain. . . . Possibly a few of them may be reclaimed and induced to cultivate the soil. I look, however, upon the great majority of them as doomed to a speedy extinction, as the result of indolence, loathsome diseases, and bad whisky." To the latter truly discouraging account it may be apposite to say just here that the last ten years have witnessed a very encouraging change in

the condition of the Indians on the above reservation. While it is true that some of the S'kallam tribe, on the Sound (which may be those particularly referred to by Congressman Nesmith), are retrograding, yet most of them, as appears by Agent Eel's report of last year, "live in good houses, and have the comforts and many of the conveniences of civilized life. They have about forty farms, with from two to ten acres each, cleared up and improved. . . . Take the year through, and I think there has been less drinking, more crops raised, and more interest taken in the school than any year previous since my residence here."

It is a fearful thing to fasten a loathsome disease upon a whole nation, and, we hesitate not to say, it is mainly owing to the presence of the military in their midst that its prevalence is to be attributed.

The agent of the Hoopa Valley Reservation, Northern California, states (Report 1876) that "the proximity of the military post, it being situated in the midst of the reservation, is a source of evil, as it allows of so much illicit intercourse between the soldiers and the Indian women; and while these things exist I am thoroughly persuaded that any effort to Christianize and elevate this people is labor in vain."

Surgeon Hillary, of the Indian Hospital, at Fort Sumner, Navajoe Reservation, New Mexico, reported in 1866 (p. 151 of Commissioner's report), that of 321 patients treated during the first eight months of the year, 235 were cases of syphilis, and he adds that there will always be such a preponderance as long as so many soldiers remain around there.

"I should strongly oppose," says Agent Clum, of the San Carlos Reservation, Arizona (Report 1874, p. 297), "a nearer residence than five miles from an Indian camp, as the association of the soldiers with the Indians is very demoralizing."

The Commissioner of Indian Affairs, in his Report for 1868 (p. 11), emphatically says: "If you wish to see some of the results of establishing military posts in the Indian

country, I call your attention to the six hundred or eight hundred half breeds, till recently loafing around Fort Laramie, to the posts along the Missouri, to Fort Sumner in New Mexico, before the Navajoe exodus, and to *all our military posts in the Indian country, with no known exception*. If you wish to exterminate the race, pursue them with the ball and blade; or, to make it cheap, call them to a peaceful feast, and feed them on beef salted with wolf's bane; but, for humanity's sake, save them from the lingering syphilitic poisons so sure to be contracted about military posts."

The above was written a year before the visit of special Commissioner Colyer to Alaska (1869). William S. Dodge, the mayor of Sitka, in a letter to V. Colyer, published on page 136 of said report, states that "the conduct of certain military and naval officers and soldiers has been bad and demoralizing in the extreme; not only contaminating the Indians, but in fact demoralizing and making the inhabitants of Sitka what Dante characterized Italy—'A grand house of ill-fame.'" He further states, on the authority of Medical Director Bailey, that within six months after the appearance of the troops at Sitka, nearly the whole of the Sitka tribe, some twelve hundred in number, were suffering from venereal diseases, from which many of them eventually died.

Special Commissioners Powell and Ingalls, who, in 1873, visited various bands of Ute Indians, Shoshones, and other tribes, stated that the very name of a soldier, as being associated with their social demoralization and the unmentionable diseases with which they are plagued, is synonymous with all that is offensive and evil. "Everywhere," they say, "as we travelled among these Indians, the question would be asked us—'If we go to a reservation, will the government place soldiers there?' And to such a removal two objections were invariably urged. The first was, 'We do not wish to desert the graves of our fathers,' and the second, 'We do not wish to give our women to the embraces of the soldiers.'"

* Page 25 of the Report.

CIVIL OVERSIGHT PREFERABLE TO MILITARY.

As the same damaging influences, by reason of the proximity of the military posts to the reservations, *continue* to operate, it needs no extended argument to show that the efforts to Christianize the Indians must be (as sufficiently shown in the reports) nearly or altogether futile while those baneful influences are permitted to exist. We must not forget, too, that this same demoralization reacts fearfully upon the soldiery. Hence, one strong argument in favor of the employment of a *native police* in lieu of the military, for the maintenance of law, would be, that this great evil of the dissemination of syphilitic diseases would probably be largely overcome. The native police being thus composed of a body of men coming directly from neighboring homes, to which, indeed, many of them might be enabled daily to return when off duty, would not be liable to the same temptation to sinful intercourse, as obtains in the case of a soldiery, many of them very immoral, and for years withdrawn from the checks of home life.

The subject of the expediency of committing the police oversight of the Indians to the care of the military has been heretofore so fully discussed that it may seem scarcely necessary to adduce any considerable array of reasons or facts to prove the undesirableness of such a means of administration. Whether the status of the Indians be considered as that of "domestic dependent nations,"* or simply as communities of individuals whom we may no longer recognize as possessing the right to enter into treaties,† yet it may be shown by abundant and incontestable proofs that the civil arm of the law, conscientiously administered, has been, and is, that which is best calculated to secure their permanent pacification, as well as their continuous moral and material advancement. The history of Indian affairs in Oregon and contiguous territory, for the last quarter of a century, well illustrates the correctness of this statement.

* Chief Justice Marshall.

† Act of 3d March, 1871.

When Anson Dart was requested, in 1850, to assume the position of Superintendent of Indian Affairs for Oregon (which at that time included also Washington and Idaho Territories), he, under a belief that the civil process was best adapted to Indian management, declined the office, unless the military were first removed—there being six military posts in the Territory. The withdrawal of the troops was accordingly effected. During the three years of his occupancy there was no trouble with the Indians. "Not one dollar," he says,* "was the government called upon to pay to quell any Indian disturbances during that time." But Dart was removed in 1853, because (so it was affirmed) so peaceful a state of affairs brought no money to Oregon. The wars of 1854-55 followed, and were believed to have involved the government in an expenditure of eight million dollars. "I am sure," Dart concludes, "there were no good reasons for having trouble with any of the Oregon Indians."

The massacre of Modocs at Tule Lake, within the California line (1852), by a company of volunteers under Captain Ben Wright, the treaty of 1864 with the Klamaths and Modocs, the overbearing conduct of the Klamaths toward the associate tribe, and the Modoc war which followed, have already been referred to. It may have been a subterfuge, but more probably it was felt to be a true ground of complaint, on the part of Captain Jack, that he desired the Peace Commissioners to order the troops removed to the position they occupied at the time the truce was agreed upon. Their proximity was felt by that high-spirited people to be a menace. It has been remarked by Heekewelder† that "in early times when Indian nations after long and bloody wars met together for the purpose of adjusting their differences or concluding a peace with each other, it was their laudable custom, as a token of their sincerity, to remove out of the place where the peacemakers were sitting all warlike weapons and instruments of destruction, of whatever form or shape.

* See his Letter to Commissioner of Indian Affairs, Report 1868, page 50.

† History, Manners, and Customs of the Indian Nations, chap. xxii.

So particular were they on this point, that if a single weapon had been in sight while a treaty was negotiating, it would have disturbed their minds by recalling the memory of past events, and instead (as they say) of gladdening their hearts by the prospect of a speedy peace, would, on the contrary, have filled them with shame."

The Sioux war of 1852-4, originated from a dispute about a cow, which, having been abandoned by an immigrant Mormon train, was found by some Indians, and by them killed and eaten. Immediately afterward, a lieutenant and squad proceeded to the Indian camp, and demanded the surrender of the man who had dispatched the animal. The Indians, while offering to pay for the cow, refused to deliver the man up, whereupon the soldiers first fired upon the Indians, killing and wounding several, then, surrounding the remainder, completed the massacre. But the Sioux war which ensued cost the nation at least twenty million dollars, several hundred lives, and much public and private property.*

The circumstances attending the outbreak of the Apache war are described in Bell's *New Tracks in America* (vol. 2, page 43), published at London, in 1869. His account is as follows:

"Until the winter of 1861-2, the Apaches of the Chiricahua range of mountains had not shown any very determined hostility to the Americans; and the mail company for the two years that they ran coaches along the route kept on good terms with them by giving occasional presents of blankets and food. At the breaking out of the rebellion, however, an upstart Federal officer, named Barkett, was sent to take charge of this part of the country; and soon after his arrival at the entrance of the Apache Pass, where he had formed his camp, some Mexicans applied to him about a boy of theirs whom they suspected had been stolen by the Apaches.

"Barkett summoned the chief Cachees [Cochise] and his head men to the camp. Being on friendly terms with the

* Report of Commissioner of Indian Affairs, 1868.

troops, the red men immediately responded to the summons. Cachees and his six men, however, positively denied the charge of kidnapping the boy; upon which orders for their arrest were immediately given. Cachees in a moment slit open the canvas of the tent with his scalping-knife, and escaped. A man named Wallace, who had long lived on the most amicable terms with the tribe, volunteered to go alone and treat with them. He did so, and sent back a message to Barkett that in his opinion the boy had not been stolen by them; but added that he himself was retained as a hostage. Barkett became furious, and swore that he would hang the red men if the boy was not returned that night—and he kept his word. On the heights to the left, the half dozen savages were strung up next morning; and, shocking to relate, poor Wallace, who had trusted so implicitly to the personal affection shown for him by the redskins, was immediately hanged on the summit of the opposite heights.

"This tragedy over, Cachees and his entire band fled back once again to their mountain fastnesses, never more to come in contact with the white men unless in execution of unquenchable revenge. . . . When Cachees's six best warriors were thus wantonly hanged, that bold chieftain vowed that for every one of his lost comrades a hundred white men should die by the hand of himself or his band."

In the autumn of 1872, however, General Howard (then Special Indian Commissioner), with the assistance of Special Agent Jeffords, succeeded in making a peace with the notorious chief. The treaty was effected in the Dragoon Mountains, and the refractory band was brought upon a reservation. The story of this conquest of peace is instructively told by Agent Jeffords, in the report for 1873, page 291. We will repeat it here. "For thirteen years prior to this treaty with General Howard," says the Agent, "Cochise and his allies, the Southern Chiricahua Apaches, had waged such bitter and unrelenting warfare against the people of these frontiers that his name had become not only a terror to the wayfarer and at the campfire, but to every household. It has been said, and not without any great exaggeration, that the

Southern Overland road from the Rio Mimbres to Tucson, was a graveyard for Cochise's victims. Highways could only be travelled in safety by large and well-armed parties. Miners would leave their homes to prospect in the mountains to be heard from no more. Farmers would be killed at the plow-handle while tilling the soil. Scarcely a family living within striking distance of his mountain fastness, but mourns the loss of some of its members that have met their deaths at the hands of his braves. The military, although they had carried on a constant warfare against these Indians, were unable to stop their ravages. A former commissioner had been sent out by government to treat with these Indians, but not wishing to visit them in their homes, unless accompanied by a large military escort, was unable to procure an interview with them, they declining to go near the troops, fearing treachery. This was the exact state of affairs as they existed when General Howard visited this Territory a year ago. Prior to General Howard's coming, I had visited Cochise in his mountain home, and had learned from him that he wished to make peace with our government, but I also became satisfied that he could not be brought where there were troops, to make a treaty. I therefore, when sought by General H. to assist in procuring an interview with Cochise, asked him if he was willing to visit him alone with me, and without troops. I received his frank reply in the affirmative, and I then became satisfied in my own mind, and circumstances have since proven that I was correct, that the war with Cochise and the Chiricahua Apaches was at an end. . . . Although it is not a year since the aforementioned sad state of affairs existed, I am happy to be able to inform the department that at present everything is exactly the reverse. Wayfarers can now be seen on our highways travelling alone and unarmed. Farmers and miners are pursuing their labors with as much unconcern as to safety as their brothers of the East, and confidence in the good faith of these Indians on the part of the settlers appears to be universal."

Cochise died in the Dragoon Mountains in the summer of

the following year, 1874. The Agent says of him that he was the most reliable and honorable Indian he had ever met; that the treaty made with him had not been infringed in any respect, and that he had greatly aided the Agent in many ways. Finally, that there had not been a single depredation committed by the tribe the year past, and that very few of them had been off their reservation.

As the happy and reassuring effect of a conciliatory course is ever felt in widening circles, so is the reverse course similarly effective in producing discontent, suspicion, and hate.

The Chivington massacre of 1865 resulted in a universal feeling of distrust on the part of the Indians. That memorable deed of blood was a signal wrong for which the government should have promptly made reparation—not to the Cheyennes alone, but to the whole outraged race. Hence, also, we cannot wonder at the alarm which spread among the tribes of the trans-Missouri when, in the summer of 1874, the military reconnoitring expedition pushed its way toward the coveted Black Hills. "The excitement," said the Agent of the Cheyenne River Reservation (Report 1874), "occasioned by the report of the late expedition to the Black Hills country has reached this agency, and I am sorry to say has done visible harm in causing dissatisfaction and discontent. I find the Indians irritable, and even in those who have been hitherto most friendly and appreciative, I have discovered signs of incipient hostility and insubordination."

The present war in Idaho, arising from the intrusion of white settlers upon the Wallowa Valley claimed by the Nez Percé chief, Joséph (and aggravated by the murder of one of Joseph's band by white men), we believe might have been turned aside without recourse being had to military coercive measures. We refer to the case of Howard and Cochise, already detailed, as a precedent. Eleven years ago the Commissioner of Indian Affairs, in his Report (1866), said of the tribe of Nez Percés, that notwithstanding the white population was pressing hard upon them in the search for gold, "they are peaceable, industrious, and friendly, and altogether one of the most promising of the tribes west of the Rocky

Mountains, having profited largely by the labors of the missionaries among them."

INDIAN CONSTABULARY.

In urging the inauguration of a uniform police system for the maintenance of the peace and the upholding of the laws within the Indian Territory and the reservations, we feel that we cannot better introduce the subject than by reproducing the following letter of Dr. Daniels. The latter was, for three years, a most successful Agent with the Sisseton and Wahpeton Sioux. His letter, dated December 23d, 1871, has previously appeared in the Report upon Fatal Obstacles to the Christian Civilization of the Indian, adopted (February 29th, 1872) by representatives of religious and philanthropic organizations co-operating with the government in the care of the Indians. Dr. Daniels says:

"In answer to your verbal inquiries concerning my course with the Sisseton and Wahpeton Sioux Indians, to keep order among themselves and prevent the introduction of liquor, I would respectfully state that a system of police was organized by my request. Twenty-five men were selected by the chief and his counsellors, who were appointed by my approval. They were to perform the duties of police among whites; besides, they were not to allow any liquor, by Indian or white, to come upon the reservation, and whenever found on their land to destroy or bring it to the agency to be condemned.

"They were also to protect the frontier of Minnesota and Dakota from the hostile Sioux on the Missouri, and report to me, through their chief, all arrivals of Indians from every part of the country. Their business and course were communicated to me at once. All dancing that pertained to their tribal habits and that interfered with farming operations was to be stopped by them. They were under the charge of the agent or chief for special duty. By the kindness of the

Department Commander of the United States, they were armed with carbines.

"I found these men willing, under all circumstances, to perform any duties required, and in my opinion as efficiently as twice their number of United States soldiers. Until this police force was organized hostile parties from the Missouri used to be raiding on the frontier, and running off horses under the guns of the fort; while since then they have not been seen or heard of. The duties these men perform do not interfere with their farming. They take a pride in it, as the system is a part of one that existed in their tribal state, when the chief had braves, only now they are used to keep peace and advance civilization instead of going on war parties and taking scalps.

"I had this police force for two years, and during that time no drunkenness was seen on the reservation. There was no disturbance or trouble of any kind; and when liquor was taken from white or Indian it was immediately brought to the agency and destroyed. They were kind, firm, and decided.

"To what extent this system can be carried out among Indians less acquainted with the whites is a question to be settled by a judicious trial. The Agent should know his men well, and the chief and his counsellors should be men competent to appreciate the advantages of such a force when instructed."

The Agent of the Santee Sioux, in Northern Nebraska, reported in 1874 that he had a police force of six men, at ten dollars each per month, and a chief of police at twenty-five dollars per month, all Indians, and that they rendered him efficient assistance in the maintenance of good order upon the reservation. From the same agency the following reference as to how the system has worked occurs in the report of last year: "Of minor offences we have plenty, but following them with speedy punishment seems to have a very salutary effect. Even a case of drunkenness on or near the reservation has not been heard of for many months.

A few properly selected Indians for policemen are a great help to the Agent in preserving order, and I have felt the loss of them the past few months, but have called on the former ones occasionally when absolutely necessary."

At the Yankton Agency, Dakota, where the Indians number nearly two thousand, a single native policeman or watchman has been employed for two years; but of late the services of even that officer have been dispensed with. "During the four years of my stay among them," says the Agent in his report for 1876, "not a single life of Indian or white man has been lost on this reservation by the hand of violence; very seldom is property lost by theft, and, in fact, as far as good conduct is concerned, I doubt if anywhere a more peaceable and orderly community can be found." It is evident, therefore, that the expense of maintaining the law at Yankton Agency, notwithstanding its large population, would be trifling indeed. But not so much to the presence of police as to kind teachers, religious training, and just dealing, must the good order prevalent at this station be mainly attributed.

Agent Clum, of San Carlos Agency, Arizona, stated in his report for 1874, that he had appointed four Indians to perform general police duty, and that the result being very satisfactory, it was his intention to employ them permanently at a fixed salary (fifteen dollars per month). His report for 1876 details several instances of important services ably performed by this native constabulary, one of which was the bringing in of an outlaw guilty of murder, together with thirty-eight other people, mostly women and children, who were at his camp. Likewise the removal under police escort of three hundred and twenty-five Chiricahua Apaches to San Carlos Reservation; besides similar other services. [Nevertheless, as the Agent appears to have made a rather free use of firearms, it would seem as though the policeman's mace in lieu of the musket would be a wise substitution. The parade of deadly weapons has been ignored in peaceable communities of whites, and could be done so advantageously on Indian reservations. The temptation on the part of the officer to shoot and kill on slight provo-

cation would be avoided, while the feeling of resentment which the knowledge of an armed surveillance produces would not be manifest.]

Among other ways in which such a police force would be useful would be the regulation or prevention of the mischievous custom of interchanging visits, still so common with many tribes of Indians. These visits are frequently made at a time of year when the Indians should be especially busy with their farm labors, and they have hence proved a source of great annoyance to the agents of the tribes most given to the migratory practice. Some of these Indians will draw a week's rations at one place, and upon visiting another agency, repeat the performance.

The report from Devil's Lake Agency, Dakota (1876), says, hereupon, that "this agency has been visited this summer by five different parties of Chippewas, and one party of Mandans and Gros Ventres, numbering from thirteen to sixty persons in each party, remaining for several days each time. Such visits are productive of no good, but, on the contrary, are demoralizing, from the fact that during the whole time of their stay it is one continued feast and dance; many of our best Indians adopting paint and feathers for the time being, and participating in the festivities, recounting their exploits and deeds of valor."

The Agent of the Red Lake Chippewas (a tribe particularly subject to the visiting fever) thus remarks: "Additional restraint should be placed on those Indians who seem bent on making unnecessary visits to other tribes. Friendly visits are not always an unmixed evil, although frequently a source of much more evil than good. These visits are made at a time when they should be at home cultivating crops and preparing for the winter, instead of general carousals, debauchery, senseless gift-making, begging, and pilfering on the route to and fro. They are the frequent sources of ill-will between the Indians and the white settlers, among whom they pass and repass."

Presents of ponies are bestowed on the visitors by the visitees, who, in turn, return the compliment when they

themselves become visitors. Large numbers of useless animals are kept just for this gift-making purpose. This evil is a time-honored custom, which was not inimical to their former life as hunters and trappers (especially in the days when rum was unknown to them), but is not now promotive of the steady pursuits of that agricultural life which they have adopted. It can only be cured by the adoption of a stringent rule permitting but a very few individuals—and those furnished with permits from the Agents—to leave the reservation at one time. Those found unprovided with such permits would be subject to arrest by the police, and to a fine or imprisonment by the Agent, acting as a magistrate.

INEFFICIENCY OF PRESENT ADMINISTRATION OF LAW.

Facts, such as the foregoing, must amply show, we believe, the urgent necessity for bringing the Indian Territory and reservations under the operation of a definite system of laws. So far as the Indian Territory is concerned, the Superintendent of the Central Superintendency, the Agent for the Mobilian tribes, and all the other agents within the superintendency, unanimously join in the request for some more adequate method of legal restraint than can be possible under the present imperfect statutory provisions. Cordially do we concur with the recommendations of Superintendent Nicholson, contained in his report of last year, and which we here reproduce as being so well expressive of our views. He says:

"The laws of the United States should be extended to Indians as well as to citizens, and to this end the Indian Territory should be made a judicial district, with all the appointments necessary for a vigorous enforcement of the law. Its attachment to the district of Arkansas is quite useless to the ends of justice, except in the eastern portions of the Territory, and, as the law now is, no prosecution can be made in any United States court of any crime of one Indian against another. Our legislators have much faith in

law for white men. I wish it were possible to persuade them that it is equally beneficial to Indians. Crime always provokes some sort of retribution. If this retribution is dispensed by the law, that is usually an end of the matter; but when law fails to be executed, private revenge takes its place, and this in turn provokes still further private revenge, and thus one murder often becomes the cause of many other successive murders, each committed in retaliation for that which immediately preceded it. No wonder, then, that God has sanctioned human law for its very beneficence, and has clothed it with majesty. Why should it be withheld from Indians?"

The Commissioner of Indian Affairs, in his Report for 1873, says, p. 11: "The attempt to administer justice for all the Territory, through the United States courts, at Fort Smith, has been largely a failure, and sometimes worse." How trivial is the oversight exercised by the United States District Court of Arkansas, may be gathered from the statement made by the Commissioner in his report of the following year, where he states that "the two or three United States marshals, sent to enforce the intercourse laws by protecting Indians from white thieves and buffalo hunters, have been entirely inadequate to cover a country of 30,000 square miles, and out of this inadequate administration of the law have come the irritation and retaliation which have led to the present hostilities. The constitution adopted by the Ocmulgee Council, in 1870, has not been ratified by the legislatures of the several civilized tribes of the Territory, and all efforts on the part of the Indians to establish a government have failed. Such administration of the law in this country as is possible, through the United States District Courts of Arkansas, scarcely deserves the name. Practically, therefore, we have a country embracing 62,253 square miles inhabited by more than 75,000 souls, including 50,000 civilized Indians, without the protection of law, and not infrequently the scene of violence and wrong. The necessity of establishing a government in some form, or at least a United States court, for these people, is manifest, and (he concludes)

I respectfully recommend that this necessity be again clearly laid before Congress."

Furthermore, as to the Arkansas marshals, it has been at times a subject of complaint that some of those sent into the Indian country by the United States District Court at Van Buren were by no means discriminating as to the nature of the arrests made by them. The fact of their livelihood being dependent on their fees has resulted in numerous vexatious arrests of persons who have been taken long distances from their homes, and no proceedings have been afterward successfully maintained against them.*

The disinclination on the part of court officials in States and Territories contiguous to the reservations, towards incurring the *expense* of maintaining proceedings against offenders within the borders of such reservations, has been another reason why the cause of justice has been frequently inoperative. Thus, Agent King, of the Chippewa Agency, Minnesota, mentions (Rep. 1876) the case of an outrage upon an Indian girl, whose father, desiring the white man's law to be enforced, the matter was promptly reported by the Agent to the United States Attorney at St. Paul. Notwithstanding assurance of hearty co operation was given, no redress whatever was obtained, no action even was brought, apparently because the State officials did not care to involve the commonwealth in the expense of a prosecution.

The Agent of the Mescalero Apache Agency, complains of the great difficulty of enforcing the laws for the protection of the Indians, in consequence of the great distance at which the United States officials and the civil authorities reside from the reservation; the United States Commissioner being thirty-eight miles away, the United States Deputy Marshal forty-eight miles, and the civil authorities eighteen miles. The time necessary for the procurement of a warrant and an officer to serve it, would be amply sufficient to enable any quickwitted culprit to make good his escape.

* Evidence of W. P. Ross, Board of Indian Commissioners' Report, 1870, p. 117.

Agent Richards, of the Wichita Agency, testifying (Report of 1874) to the demoralization brought upon his Indians by lawless whisky traders and horse thieves, and of the difficulty of insuring their prosecution even after capture, says: "The difficulty does not so much lay in want of means for arresting these desperadoes, as in a prompt and efficient disposal of such cases after arrest. The parties have to be carried into the State of Arkansas, where it is almost impossible to get witnesses to testify against them."

MAGISTRATES' AND JUDGES' COURTS.

The same elements of character which are requisite to make a good Indian Agent, as at present, are those also which are essential in an efficient magistrate, namely, good judgment, integrity, and firmness. And inasmuch as, under the present circumstances of the case, it becomes the province of the Agent not infrequently to authorize arrests, or deliver judgment in cases of dispute, it would seem as though the ends of justice would be best subserved, were the Agent made in fact United States Commissioner or Magistrate, and his authority properly supported by the necessary force of native policemen or deputies. He would also be granted then what his onerous duties (if properly discharged) entitle him to now, a salary commensurate with the work done and valuable services rendered. His jurisdiction, of course, would extend only to the offences of a minor grade, principally personal disputes, and some of the lighter cases of thieving, and the illicit trade in whisky; the Indians to be esteemed equally competent with whites to testify as witnesses.

For the trial of crimes of a graver character, there should be United States District Courts, exclusively for the Indian Territory and the reservations. Could the reservations be reduced to one-fourth their present number, the course of justice, it is true, would probably be greatly facilitated, while it could be administered much more economically than would be the case if separate courts were apportioned to most of the agencies outside the Indian Territory. Nevertheless it will

be conceded that it would be better to establish, even for limited populations, tribunals of justice for the peaceful upholding of law, than to make necessary the construction of forts and the maintenance therein of an armed soldiery, with the consequent evils (as already set forth) accompanying their presence.

But in arranging for the organization of courts and a constabulary, the question presents itself: How shall juries be properly constituted on reservations where lawfully no one but Indians, government officials and their appointees, are permitted to reside? Would a white man, a citizen, arraigned for a capital crime before a jury of twelve Indians, not citizens, be accorded a trial by a jury of his *peers*, legally considered? On the other hand, how have Indians fared, for instance, in seeking justice before a frontier jury of whites? "It was no uncommon saying," to quote Heckewelder again, "among many of the men of whom juries in the frontier counties were commonly composed, that no man should be put to death for killing an Indian, for it was the same thing as killing a wild beast!" Would an Indian arraigned before a jury so constituted be accorded a trial before *his* peers?

Nearly the same difficulty would be experienced in securing the conviction of horse thieves and whisky dealers as there is of murderers. When General Fletcher was at the Chippewa Agency some years ago, he made strenuous efforts to bring the whisky sellers to justice, having come prepared to attend court, with twelve or fifteen Winnebago Indian witnesses at an expense of probably \$30 per day. About twenty indictments were found against the dealers. The first one placed on trial was a Chippewa woman, upon whom the offence was positively proven, with no rebutting testimony. Nevertheless, the jury acquitted her, and the balance of the indictments were never prosecuted.*

Obviously, therefore, if the policy of separation or seclusion for Indians is to be continued, the formation of mixed juries, in cases where the parties to a cause were of different

* Report of Agent Herriman to Commissioner of Indian Affairs, 1856.

raees, would not be feasible in the same manner as it has sometimes been in the past, where no arbitrary boundaries have interfered with the ready mingling of whites with Indians. Thus, William Penn, in his "conditions" or "concessions" to the colonists in Pennsylvania, provided (section 14) that "all differences between the planters and natives shall (also) be ended by twelve men, that is, by six planters and six natives, that so we may live friendly together as much as in us lieth, preventing all occasions of heartburnings and mischief."

And, in addressing the Free Society of Traders, in London, the worthy proprietor in words which sounded the keynote of the Quaker policy of Indian treatment, said: It were miserable indeed for us to fall under the just censure of the poor Indian conscience, while we make profession of things so far transcending.*

The brief Indian administration of that estimable proprietor and governor of Carolina, John Archdale (1696-7) is worthy of mention in this connection. Previous to his arrival, the colonists had been at sword's points with the Spaniards of St. Augustine, and with the Yamasses and other neighboring tribes of Indians, whom they were in the habit, when taken prisoners, of sending off to the West Indies as slaves. Archdale, on the contrary, anxious for the establishment of exact justice, appointed magistrates for hearing all causes between the settlers and the Indians, and for finally determining all differences between them. He stopped the war between the Yamasses and Florida Indians, by sending some of the former, in the interests of peace, to the Spanish governor, who replied courteously, thanking him for his humanity. An English vessel being wrecked soon afterward on the Florida coast, the commandant at St. Augustine furnished the crew with provisions, and sent them in safety to the English settlements. About the same time adventurers from New England were wrecked on the upper Carolina

* Proud's History of Penna. Leeds's History of the United States, page 217.

coast. Expecting nothing but instant death at the hands of the Indians, great indeed was the surprise of the castaways at being kindly received by the so-called "savages," who, permitting them to acquaint Governor Archdale with their misfortunes, a vessel was quickly dispatched to their relief. Such are the speedy conquests of just and judicious management.

It may likewise be instructive to inquire concerning the usage which obtained with the "Praying Indians" of Massachusetts, located by Eliot in several villages near Boston. Soon after the organization of the first of these native communities at Nonatum, the General Court of Massachusetts (1647) established a judiciary among them, adapted to their simple condition and wants—they having expressed a desire, through Eliot, to have a "course of ordinary judicature." It was ordered that one or more of the magistrates of the colony should, once every quarter, hold a court at some place where the Indians usually assembled for religious purposes. It was the duty of this court to hear and determine all civil and criminal causes, not being capital, which concerned the Indians only. The sachems were empowered to issue orders or a summons to bring any of their people before this tribunal. They were also permitted to hold inferior courts themselves, every month, if there should be occasion, to determine civil causes of a less important nature, and such smaller criminal causes as might be referred to them by the magistrates. The sachems were to appoint officers (police) to serve warrants and execute the orders and judgments of the courts. All fines were to be appropriated to some public use, such as the building of places of worship or the education of the children.*

It would appear, from Eliot's statement, that these courts did not result in a great deal of practical benefit, owing to the difference of language, the great lack of good interpreters, and the trivial and tedious causes brought forward for adjudication. Hence, in establishing his second village of Natick, he

* Life of John Eliot, by Convers Francis, in Sparks's American Biog.

proposed a politico-religious scheme, founded upon the Bible. He says of his Indians: "They shall be wholly governed by the Scriptures in all things, both in Church and State; the Lord shall be their lawgiver, the Lord shall be their judge, the Lord shall be their king, and unto that frame the Lord will bring all the world ere he hath done." Advised by the faithful missionary, the natives were counselled to adopt the plan given to the Israelites in the wilderness, namely, to choose able men, such as fear God, men of truth, hating covetousness, and make them rulers of hundreds, of fifties, and of tens—which they accordingly did. These rulers were to judge the people in small matters, while the hard causes were to be referred to the magistrates. The system of judicature instituted at Nonatum was now (1656) by the General Court of Massachusetts renewed and enlarged. It was enacted that one of the magistrates of the colony, acting in conjunction with the Indian rulers, should hold a higher court, the powers of which should be of the same latitude as those of a County Court among the English. Daniel Gookin was appointed, and held for many years the office of magistrate as well as superintendent of the Indians, whose faithful friend he ever continued to be. The laws passed for the regulation of affairs among the Indians were to be made known to them once a year.

Within a few years succeeding the settlement of Nonatum and Natick, five other villages of the Christian Indians were organized, and, in the country of the Nipmucks, on the Connecticut border, southwest of Boston, seven others. These communities progressed satisfactorily, on terms of entire amity with the whites, until the breaking out of the war with Philip of Pohanoket, thirty years after the beginning of the experiment. The war proved to be a disastrous blow, quite wrecking the benevolent hopes of Eliot and his co-laborers. Many of the natives were killed or sold into slavery, some famished in the wilderness, while many others, again, relapsed into heathenism.

In the absence of the conditions for properly constituting a mixed jury, it would appear necessary that the Agent, act-

ing as United States Commissioner, and likewise the judges of the Indian District Courts, should have power to *pass both on the law and the facts* in those causes which should be brought before them; reserving, however, to the accused, upon giving security for costs, the privilege of appealing to the judgment of the Circuit Court, to be held at such places as properly constituted juries should be obtainable.

DESIRABILITY OF CITIZENSHIP.

But, much as it may be the wish of all fair-minded men that the like degree of justice be accorded the Indian as is extended to the white man, yet it is evident that, *unless he be acknowledged a citizen*, he will be in a position, as regards civil and political safeguards and privileges, below the level of the negro, and practically on the same plane with the Chinaman. Hence, all special legislation for the Indian, and all attempts at civilization, should have always in view his assumption, at the earliest date consistent with prudence, of the responsibilities of citizenship. Having once been qualified and enrolled as citizens, self-government follows, and our guardianship as a nation terminates. But we are well aware that there is by no means a unanimity of sentiment on the part of the Indians, in favor of being enrolled as citizens of this republic; and the reason of this indifference is, in great measure, lack of confidence. Now, the solvent of suspicion and dislike—the link that will bind hitherto alienated hearts—is Trust. To the prevalence of this sentiment among the Canada Indians may be largely attributed their greater tractability as compared with the tribes within our own borders.

The Commission of 1876 to the Sioux Indians expressed their opinion concerning the success of the Canadian policy, as follows: "The fact that the English government in Canada has expended no money in Indian wars since the American Revolution, has lost no lives by massacre, has had no desolated settlements, and that its Indians are to-day, as they have always been, loyal to the British crown, is due to

the fact that it has fulfilled its plighted faith, has given to its Indians personal rights of property and the protection of law, has fostered Christian ministers, and has placed over its Indians agents who (generally holding their office during good behavior) are fitted for the task of guiding a savage race to civilization."

ECONOMY OF FULFILLING TREATIES.

The economy of carrying out our treaty stipulations with the Indians, as compared with the cost of breaking them, seems to be a consideration but partially recognized. Instance the many million dollars expended, and the hundreds of lives lost at the hands of the Sioux in consequence of the military occupation of the Powder River country in Dakota, where, within the acknowledged territory of the tribe, three forts (Phil. Kearney, Reno, and C. F. Smith) were constructed without the consent of the rightful owners, and in direct violation of treaty stipulations. Or, the Cheyenne war of 1867, caused by the wanton burning by the military of one of the villages on Pawnee Fork, which had been assigned the tribe by the treaty of 1865; a war which cost several million dollars, the loss of a vast amount of private and public property, and the sacrifice of over 300 soldiers and citizens, while it is believed that no more than six of the Indians were killed.*

Not merely are these sanguinary occurrences to be deplored because they have cost us so much in money, in lives, and in property, but because they serve greatly to retard the civilization and Christianization of the red men, and in corresponding degree indefinitely delay the solution of the problem of their citizenship.

Agent Burke, of the Standing Rock Agency, says (Report of 1876), in allusion to the treaty stipulations for the conditional allotment of lands in severalty, and the grants of seeds and agricultural implements to those who have shown

* Report of Commissioner of Indian Affairs for 1868.

their purpose to begin farming in good earnest: "The chiefs of the four bands intrusted to my care have, on many occasions, expressed the desire that these provisions might be carried into effect, and their perfect willingness to co-operate with any measure to be adopted for their material improvement and social progress."

Agent Danielson, of the Fort Hall Agency, Idaho, referring to Article VIII, of the treaty made in 1868 with the Bannocks and Shoshones at Fort Bridger (which article provides for the government grant of seeds and implements to those Indians who shall have begun farming in good faith), says: "I respectfully urge the importance and necessity of appropriating funds to carry out the provisions of said article, which, if done, I candidly believe the majority of those Indians can be made self-supporting."

Even in the case of the Osages, who have repeatedly asked for an appropriation out of their own funds (of which the government is trustee) for educational and other purposes, such requests have, with singular shortsightedness, been unjustifiably withheld. Such denials can only be compared to the reckless act of *playing with sharp-edged tools*. The Agent of the Osages says that "they are most of them wild, blanket Indians, far from civilized, many of them hardly ready to give up the war-dance and scalping-knife; and although the leaders have manifested a disposition to co-operate with the Agent in the civilization of the tribe, and have this season, probably to an extent never before known, restrained their young warriors from committing depredations, yet a failure on the part of the government to render them simple justice in a time of pressing necessity may prove a costly experiment, and be productive of grave results."

ALLOTMENT OF LANDS IN SEVERALTY.

We look upon the prompt allotment of lands in severalty (with proper restrictions) to those individuals of any tribe who have manifested their willingness to cultivate the soil, as a measure calculated to solve the question of their self-

support, removing the tribal autonomy, and as paving the way to their speedy induction into the rights and privileges, the duties and liabilities of citizenship. But, as has been intimated, many Indians are timorous, and not unnaturally so, of attaching themselves irrevocably to a nation which, though powerful, they believe to be also perfidious. Thus Agent Kent, of the Great Nemaha Reservation, Nebraska, states (Report 1876) that "permission has recently been granted to allot in severalty the land of this tribe to those who desire it, but under the fear of this act conferring upon them the rights and obligations of citizenship, which they are not prepared for and do not want, they do not seem willing to receive allotments for which a short time since they were prepared." Possibly this revulsion of sentiment was a result of the Black Hills irruption which had so recently transpired.

Nevertheless, the allotment of lands in severalty to the Indians is a measure as unanimously asked for by the government Agents, and by the individuals and associations who are laboring for their social and moral benefit, as is the extension of the criminal law over the reservations. It is believed that the Indians also are, in the main, in favor of the measure, while many ardently desire it.

R. H. Milroy, Superintendent of Indian Affairs in Washington Territory, made the following report upon this subject, in 1872. He says: "The desire for the survey and division of the lands in severalty has been earnestly expressed and pleaded for by the Indians, and asked in the annual reports of my predecessors in this office for years. In a general council, a few weeks ago, with the Indians of the Medicine Creek Treaty (embracing the Puyallup, Nisqually, and Squaxon reservations), at which the governor of the Territory was present with me, the chiefs in their speeches assured us that they spoke the strongest desire of their people when they asked for the survey and division of their lands in severalty, with titles from the government. They said that they and their people desired to build houses, make farms and improvements, and live like white men, but that

no one knew where his land was, or had a paper showing that he owned any land at all; that neighboring white men frequently told them that the government would soon take their reservations and sell them, which caused much uneasiness, and hence they had no heart to work and make permanent improvements. Can this be wondered at? Would the highest types of our boasted Anglo-Saxon race do any better under similar circumstances?"

Barclay White, late Superintendent of Indian Affairs of Northern Superintendency, in his last report (1876), states the case thus: "On each reservation there are many Indians who are using their best endeavors to learn and pursue the industries of civilization. These Indians ought to be encouraged by all government officers, and protected in their rights by statute against every encroachment. Lands should be allotted to them in severalty, held by such certificates as will prevent alienation of the nominal title from themselves even to the United States, without their written consent; and provision should be made by United States statute, under which, at a certain status of cultivation and civilization, to be determined by proper officers of the government appointed for that purpose, the Indian could be received and registered as a citizen of the United States, and the lands then transferred to him by patent in fee simple. Such an agreement would tend to encourage all well-disposed Indians in their efforts toward civilization and self-support, and, in my opinion, would rapidly relieve the government from its guardianship over Indian tribes."

The present provision for the allotment of lands in severalty to the Sisseton and Wahpeton bands of the Sioux is nearly as follows. Similar clauses are contained in some late treaties with other tribes, and it is to be hoped that none will be excluded from the benefits of such a provision. The aforesaid treaty provides (*inter alia*), That the reservation shall be apportioned in tracts of one hundred and sixty acres to each head of a family or single person over the age of twenty-one years, belonging to said bands, and entitled to locate thereon, who may desire to locate permanently and

cultivate the soil as a means of subsistence; each one hundred and sixty acres so allotted to be made to conform to the legal subdivisions of the government surveys when they shall have been made. Every person to whom lands shall be thus allotted, who shall occupy and cultivate a portion thereof for five consecutive years, shall thereafter be entitled to receive a patent for the same so soon as he shall have fifty acres of said tract fenced, ploughed, and in crop; *Provided*, That said patent shall not authorize any transfer of said lands, or portions thereof, except to the United States, but said lands and the improvements thereon shall descend to the proper heirs of the persons obtaining a patent.*

The treaty with the Sisseton and Wahpeton bands, of which the above is the fifth article, was made in 1867. The result of the abolishment of the tenure in common, and the substitution of family apportionment, has, after a trial of nine years, proved decidedly beneficial. Enabling the Agent to deal with the Indians as individuals, it has served to increase thrift, develop enterprise, and break down that aversion to any kind of methodical labor so natural in those whose habit has long been a nomadic life. With the knowledge that the land is his own and that he cannot be dispossessed of it, tent life loses its charms, while he feels the glow of a stimulus to own a comfortable house, and to provide it with the white man's conveniences.†

The Chippewa and Munsee Indians, numbering sixty-one persons, reside in Franklin County, Kansas, on individual allotments of land, which they hold by certificate title (not patent) from the government. These people are reported by Agent Newlin to be "thrifty and enterprising, have good houses, farms, barns, orchards, herds of cattle, horses, and hogs, and speak the English language." The Agent recommends that a certificate title be given also to each of the Kickapoos, believing that "individual enterprise will be promoted, more substantial and convenient buildings erected,

* Revision of the Indian Treaties, p. 112.

† Report of Agent Hamilton, for 1876, abridged.

and the Indian more rapidly and surely fitted for the duties of citizenship than by any other method."

Also, in the case of the Omahas, in Nebraska. Four years ago they were living mostly in native villages, but having received individual allotments of land, they have nearly all improved the same, and the villages are completely deserted and broken up.* The Winnebagoes, of Nebraska, eight years ago were living in the villages in the timber lands, and drawing almost their entire support from the government. Now each head of a family has a patent for eighty acres of land, many have fine farms, on which they comfortably maintain themselves and their families, while the issue of rations has been discontinued, except to the Wisconsin band of the tribe, and to those on the sick list.†

But notwithstanding the beneficent results which in many cases have followed the individual allotment of lands, yet the fact that the provisions relative to the alienation of such lands have not always been wisely framed, has proved very prejudicial to the best interests of the beneficiaries. The certificate titles for individual lots, granted to the Omahas and Winnebagoes, above mentioned, provide that said tracts shall not be "alienated in fee, leased, or otherwise disposed of, except to the United States, or to other members of the tribe."‡ Patents issuing to the Sisseton and Wahpeton Sioux forbid the transfer of said lands or portions thereof, except to the United States.§ But in the case of various other tribes, such as the Pottawatomies of Kansas, the unrestricted right to dispose of their lands was very unwisely conceded. By the treaty of 1861, with the tribe named, individual tracts were allotted in fee simple, "with power of alienation."|| Now, the majority of these Indians—Citizen Pottawatomies they are called—have gone to the Indian Territory, and have reconstituted themselves a tribe, being under the care of no Agent.

* Report of Agent Gillingham, for 1876.

† Report of Agent White, for 1876.

‡ Revision of Indian Treaties, p. 571 and 1012.

§ Ib. p. 912.

|| Ib. p. 685.

So also in the case of the Citizen Ottawas of Blanchard's Fork. Being desirous of becoming citizens of the United States, a treaty was negotiated with them in 1862, which stipulated that, at the expiration of five years after its ratification, they should be deemed and declared to be citizens, entitled to all the rights, privileges, and immunities enjoyed by such, and subject to the law of the United States or of the State thereof in which they may reside. Likewise, that each and every member of the tribe should receive patents for land in "fee simple"—without proviso as to alienation.* But already (as stated by F. J. Walker), nearly all of these Ottawas have disposed of their allotted lands, and to some extent continue to be cared for by the government, as Indians.† Another instance of this improvident surrender of their patrimony was that of the Ottawas and Chippewas, of Michigan. Although their *certificates* for allotments were expressly made non-assignable, yet this restriction, as provided for in the treaty (1855), was declared to be removable upon the expiration of ten years, when *patents* should issue to the original holders of certificates.‡ This circumstance was greedily taken advantage of by white sharpers, who in many cases negotiated for the lands antecedent to the issuing of the patents, so that now the majority of the members of those tribes have no longer any personal interest in the soil. But, while our white citizens may thus drive very favorable bargains with the red men for the possession of their lands, yet there is the danger that having rendered them homeless, they may eventually, if not protected in this respect, wander about the Western States in predatory bands, and return a "plague to their tormentors" or defrauders, or to those who may have taken advantage of their unfortunate improvidence.

The foregoing statement was written previous to the appointment of the present Commissioner of Indian Affairs, E. A. Hayt. It is therefore, with especial satisfaction, that

* Revision of Indian Treaties, p. 600.

† See Article in International Review, May, 1874.

‡ Revision of Indian Treaties, p. 616.

we note the agreement of the recommendations contained in his first annual report (1877) with those herein set forth. They are as follows :

1. A code of laws for Indian reservations, and appliances for dispensing justice, neither of which at present have any existence.

2. Provisions for the preservation of order and the enforcement of laws by means of an Indian police, composed of Indians under white officers.

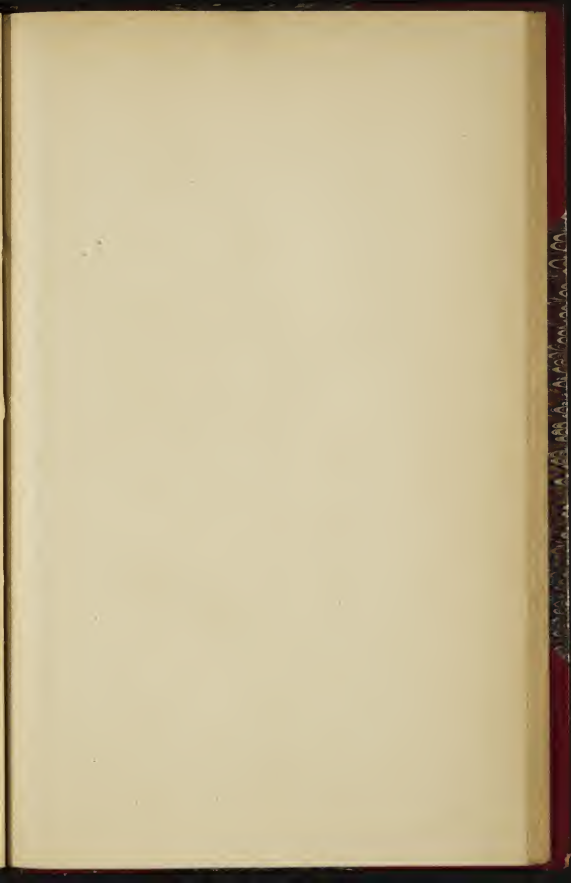
3. The endowment of the Indians with lands, divided into farms of convenient size, the title to which shall be vested in individuals and inalienable for twenty years ; and the promotion in every feasible way of the knowledge of agriculture and a taste for agricultural pursuits among them.

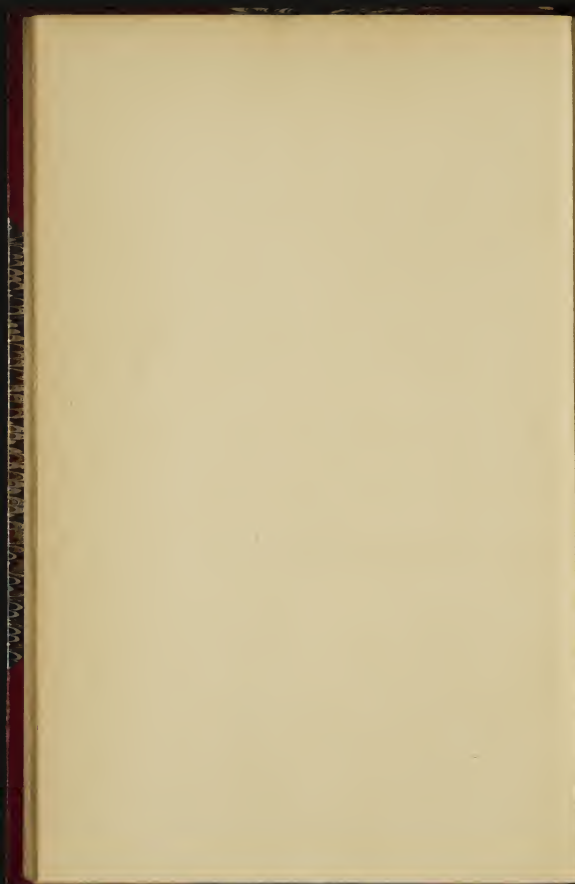
4. The establishment of the common school system (including industrial schools) among them, with provision for their compulsory education in such schools.

5. Opportunity for the free access to the Indians of Christian teachers and missionaries, in order to reclaim them from a debasing paganism, and to win them to a purer and more ennobling faith.

6. The institution of a wise economy in feeding and clothing them, making sure that it is not wastefully done, and being careful especially not to make paupers of them by the encouragement of a system of gratuitous supplies, but to minister to their self-help by insisting on their contributing their labor in return for the supplies given them.

7. A steady concentration [where it can be justifiably done] of the smaller bands of Indians upon the larger reservations, and a discontinuance of the removal of the Northern Indians to the Indian Territory. This last is essential to the well-being of the Indians, since the effect of the change of climate to which they are subjected by such removals tells with fatal effect upon their health and longevity. Southern Indians, however, who are in Colorado, Arizona, and New Mexico, should be settled in the Indian Territory, the climate being favorable to them, and there being sufficient arable land for their maintenance.







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